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111TH CONGRESS
1ST SESSION

H. R. 2190

To amend the Toxic Substances Control Act to phase out the use of mercur in the manufacture of chlorine and caustic soda, and for other purpose

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IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2009

Ms. SCHAKOWSKY (for herself, Mr. BERMAN, Mr. CARNAHAN, Mr. ELLISON, Ms. DELAURO, Mr. GRIJALVA, Mr. FARR, Mr. HARE, Ms. HIRONO, Ms. LEE of California, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Mr. PALLONE, Mr. SESTAK, Ms. WOOLSEY, Ms. WATSON, Ms. NORTON, Mr. BLUMENAUER, and Mr. PRICE of North Carolina) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assem

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mercury Pollution Reduction Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mercury and mercury compounds are highly toxic to humans, ecosystems, and wildlife;

(2) as many as 10 percent of women in the United States of childbearing age have mercury in their bloodstreams at a level that could pose risks their unborn babies, and hundreds of thousands of children born annually in the United States are a risk of neurological problems relating to mercury e posure in utero;

(3) the most significant source of mercury expo- sure to people in the United States is ingestion mercury-contaminated fish;

(4) the long-term solution to mercury pollution is to minimize global mercury use and releases o mercury to eventually achieve reduced contamination levels in the environment, rather than reducing fi consumption, since uncontaminated fish represents a critical and healthy source of nutrition for peo worldwide;

(5) mercury pollution is a transboundary pollut- ant that—

(A) is deposited locally, regionally, and globally; and

(B) affects bodies of water near industrial areas, such as the Great Lakes, as well as bod-

ies of water in remote areas, such as the Arcti Circle;

(6) of the approximately 30 plants in the United States that produce chlorine, only 5 use th obsolete ''mercury cell'' chlor-alkali process, ar have not yet committed to phasing out mercury use;

(7)(A) less than 5 percent of the total quantit of chlorine and caustic soda produced in the Unite States comes from the chlor-alkali plants describe in paragraph (6) that use the mercury cell chlor-a kali process;

(B) cost-effective alternatives are available a in use in the remaining 95 percent of chlorine an caustic soda production; and

(C) other countries, including Japan, have al- ready banned the mercury cell chlor-alkali process;

(8) the chlor-alkali industry acknowledges that—

(A) mercury can contaminate products manufactured at mercury cell facilities; and

(B) the use of some of those products re- sults in the direct and indirect release of me cury;

(9) despite those quantities of mercury known to have been used or to be in use, neither the chl

alkali industry nor the Environmental Protection Agency is able—

(A) to adequately account for the disposition of the mercury used at those facilities;

(B) to accurately estimate current mercury emissions; and

(10) it is critically important that the United States work aggressively toward the minimization of supply, demand, and releases of mercury, both domestically and internationally.

SEC. 3. STATEMENT OF POLICY.

Congress declares that the United States should develop policies and programs that will—

(1) reduce mercury use and emissions within the United States;

(2) reduce mercury releases from the reservoir of mercury currently in use or circulation within United States; and

(3) reduce exposures to mercury, particularly exposures of women of childbearing age and young children.

SEC. 4. USE OF MERCURY IN CHLORINE AND CAUSTIC SODA MANUFACTURING.

(a) IN GENERAL.—Title I of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following:

"SEC. 6A. USE OF MERCURY IN CHLORINE AND CAUSTIC SODA MANUFACTURING.

''(a) DEFINITIONS.—In this section:

''(1) CHLOR-ALKALI FACILITY.—The term 'chlor-alkali facility' means a facility used for manufacture of chlorine or caustic soda using a mercury cell process.

''(2) HAZARDOUS WASTE; SOLID WASTE.—The terms 'hazardous waste' and 'solid waste' have the meanings given those terms in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

''(b) PROHIBITION; USE PRIOR TO PROHIBITION.—

''(1) PROHIBITION.—Effective on the date 24 months after the enactment of this section, the manufacture of chlorine or caustic soda using mercury cells is prohibited in the United States.

''(2) EXPORT BAN.—Effective on the date of the enactment of this section, the export of any mercury, mercury cells, mercury compounds, and mixtures containing mercury by the owner or operator of a chlor-alkali facility is prohibited.

''(c) REPORTING.—

''(1) IN GENERAL.—Not later than 24 months after the enactment of this section, the owner or erator of each chlor-alkali facility shall submit t Administrator and the State in which the chlor-al kali facility is located a report that identifies—

''(A) each type and quantity of mercury-containing hazardous waste and nonhazardous solid waste generated by the chlor-alkali facil during the preceding calendar year;

''(B) the mercury content of the wastes;

''(C) the manner in which each waste was managed, including the location of each offsite location to which the waste was transported for subsequent handling or management;

''(D) the volume of mercury released, intentionally or unintentionally, into the air water by the chlor-alkali facility, including m cury released from emissions or vaporization;

''(E) the volume of mercury estimated to have accumulated in pipes and plant equipment of the chlor-alkali facility, including a desc tion of—

''(i) the applicable volume for each type of equipment; and

''(ii) methods of accumulation; and

''(F) the quantity and forms of mercury found in all products produced for sale by the chlor-alkali facility.

''(2) AVOIDANCE OF DUPLICATION.—To avoid duplication, the Administrator may permit the owner or operator of a facility described in paragraph to combine and submit the report required under this subsection with any report required to be su mitted by the owner or operator under subtitle C o the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.).

''(d) INVENTORY.—

''(1) IN GENERAL.—For each chlor-alkali facility that ceases operations on or after January 1 2009, not later than 1 year after the date of ce sation of operations, the Administrator, in consul tion with the State in which the facility is loca shall conduct a comprehensive mercury inventory covering the life and closure of the chlor-alkali ity, taking into account—

''(A) the total quantity of mercury purchased to start and operate the chlor-alkali fa cility;

''(B) the total quantity of mercury remaining in mercury cells and other equipment at the time of closure of the chlor-alkali facility;

''(C) the estimated quantity of mercury in hazardous waste, nonhazardous solid waste, and products generated at the chlor-alkali facility during the operational life of the chlor-alkali facility; and

''(D) the estimated aggregate mercury releases from the chlor-alkali facility into air other environmental media.

''(2) RECORDS AND INFORMATION.—In carrying out paragraph (1), the Administrator is authorized and directed to obtain mercury purchase records and such other information from each chlor-alkali facility as are necessary to determine, as accurately as practicable from available information, magnitude and nature of mercury releases from the chlor-alkali facility into air and other environmental media.

''(3) AUTHORITIES.—This Administrator shall use the authorities of section 11 and any other appropriate authorities of this Act to carry out this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents of the Toxic Substances Control Act (15 U.S.C. 2601 note) is amended by inserting after the item relating to section 6 the following:

''Sec. 6A. Use of mercury in chlorine and caustic soda manufacturing.''.

(2) ENFORCEMENT.—Section 15 of such Act is amended by striking out ''or 6'' and inserting '', or 6A'' in each place it appears.

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